S.B.CIVIL WRIT PETITION NO.5547/1994

LRs of Jalam Singh Vs. State of Rajasthan & Ors.

DATE OF ORDER :: 15th May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Malam Singh Rajpurohit, for the petitioners.
Mr. V.K. Mathur, for the respondents.
Mr. Shyam Ladrecha, Addl. Govt. Advocate.

....

The petitioner, a member of Rajasthan Police, while holding the post of Sub-Inspector (Intelligence Bureau) on deputation, retired from service on 1.10.1981. By this petition for writ he has claimed for grant of pension by taking into consideration the deputation allowance and special pay allowed to him. It is contended by learned counsel for the petitioner that at the time of retirement the petitioner was receiving a sum of Rs.100/- as deputation allowance and Rs.50/- as special pay and that is required to be treated as part of emoluments/pay while determining his pension.

In reply to the writ petition it is contended by the respondents that so far as special pay that is of Rs.50/- is concerned that has been taken into consideration while determining the pension of the petitioner but the deputation allowance cannot be taken into consideration for determination of pension being not 'Pay' as defined under Rule 7 (24) of the Rajasthan Service Rules, 1951 (hereinafter to be

referred to as, 'the Rules of 1951').

The pension of a government servant is required to be determined on basis of the pay drawn by him. According to Rule 168-B of the Rules of 1951 in respect of government servant retiring on or after 1.6.1969 the term 'pay' for the purpose of determination of pension shall be the pay as defined under sub-rule 24 of Rule 7 of the Rules of 1951.

The term 'pay' as defined in sub-rule 24 of Rule 7 of the Rules of 1951 does not include the deputation allowance in it. Learned counsel for the petitioner also failed to paint out any decision/order of the Governor specially classifying deputation allowance as emoluments.

In view of it, the deputation allowance cannot be considered and treated as pay while determining pension in accordance with the provisions of Rajasthan Service Rules, 1951.

The writ petition, thus, is having no merit, and therefore, is dismissed.

(GOVIND MATHUR),J.

jgoyal